

10.
08-07-2022
debajyoti
(Ct. no.06)

MAT 1000 of 2022
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IA NO:CAN/1/2022

Sri Nishikanta Dolui & Ors.
Vs.
Mr. Kanak Kumar Maity & Ors.

Mr. Arnab Roy,
Mr. Satyam Mukherjee,
Ms. Sayani Ahmed
... For the Appellants.

Mr. Kajal Mukherjee,
Mr. Bikash Chakraborty
... For Respondent No.1.

Mr. Gopal Chandra Das
... For Tamralipta Municipality.

By consent of the parties, the appeal and the application are taken up together for hearing.

This appeal is preferred by the private respondents in the writ petition against an order dated June 13, 2022.

The private respondent no.1/writ petitioner had approached the learned Single Judge with the grievance that the concerned municipality was unable to grant water connection because of the resistance put up by the private respondents in the writ petition.

The learned Judge directed the Chairman of Tamralipta Municipality to take steps for effecting water connection in the portion of the premises of the writ petitioner. The Officer-in-Charge of the Tamralipta Police Station was directed to depute a competent officer at the site at the time of effecting water connection. The private

respondents were restrained from raising any objection at the time of effecting water connection in the portion of the writ petitioner's premises.

Being aggrieved, the private respondents in the writ petition have come up in appeal.

At the very outset, we notice from the order impugned that the present appellants did not appear before the learned Single Judge on the day the impugned order was passed. They say that they missed the list by mistake. Whatever be the reason, the fact remains that the learned Judge did not have the benefit or advantage of hearing the submission of private respondents in the writ petition.

The private respondents say that civil disputes are pending between them and the writ petitioner. A civil suit for partition is also pending. The learned Judge has made it clear that laying of the water pipe lines will not create any rights and/or equity in favour of the writ petitioner in the suit that is pending between the parties.

We are not inclined to entertain this appeal. However, if the appellants are so advised and if, they are so entitled to in law, they may approach the learned Single Judge with an appropriate application.

The appeal and the connected application are, accordingly, disposed of.

Affidavits not having been called for, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)